

United States District Court
District of New Hampshire

2013 DEC 17 P 12:51
Civil Action # 1:13-cv-539

John R. Griffin Jr. - plaintiff

v.

David Dionne, Superintendent, Dr. Matthew Masewicz, Denise Ryan
Hillsborough County and Omnihealth Care Co., et al defendants

COMPLAINT UNDER THE CIVIL RIGHTS ACT
42 U.S.C. § 1983

- 1.) John R. Griffin Jr. HCDOC # 47390 Unit 1D plaintiff
445 Willow St. Manchester, NH 03103 address
- 2.) David Dionne, Superintendent, Dr. Matthew Masewicz, Denise Ryan
Hillsborough County and Omnihealth Care Co., et al defendants
445 Willow St. Manchester, NH 03103 work address
- 3.) I, John R. Griffin Jr., Plaintiff, am incarcerated pursuant
to a pretrial detention order. Dated September 11, 2013.
- 4.) Federal courts have jurisdiction to hear civil Rights cases for 8th Amend.
The defendants have worked in concert or conspired
to violate my Eighth Amendment protections against cruel
and unusual punishment by violating my due process
Fourteenth Amendment rights as a detainee at Hillsborough
County Jail, HCDOC, by the following facts:
 - 1.) Denied me access to the standard of care medically
which would be available to me if not detained at
HCDOC jail, failing to accord me of this basic human
dignity to be so treated.

1.)

- 2.) Allowed me to suffer unnecessarily by thier deliberate indifference and administrative machinations to my medical needs and conditions, thus thier unnecessary and wanton infliction of pain upon me.
- 3.) Invoked institutional procedures to deny me treatment prescribed after diagnosis by requiring a "medical file" from a physcian for previous instances of kidney stone conditions and Right knee swollen with synovial fluid, thereby withholding treatment for clerical, administrative reasons.
- 4.) Interfered with medical judgement by non-medical reasons, such as lack of due dilligence in obtaining my prior medical records; while refusing to treat an obvious physical condition which a lay person could see the need for a physcian's attention.
- 5.) Denied me treatment that eliminated pain and suffering at least temporarily, deliberately disregarding this medical need, most notably in two separate instances of kidney stone attacks while incarcerated 9-12,13 and 11-23,24.
- 6.) Used cursory sick call procedures, nurse visits to unit for medication and such complaints, that do not permit adequate assessment of my complaints and healthcare needs.
- 7.) Refused and denied me outside care access available locally in Manchester to the jail, depriving me of that standard of care.

- 8.) Put me at increased risks for urinary tract infections, knee joint infections, tissue damage to ligaments, tendons and meniscus pads of my right knee. This could lead to permanent decrease or loss of normal knee function. Prison officials should not be required to wait till a problem occurs before addressing risk to detainees and inmates.
- 9.) Defendant David Dionne told me that medical staff at the HCDOC jail cannot treat detainees or inmates for pain and health issues until they produce records from a doctor to prove they're not lying about their pain or health issues, thus failing to 'right the wrong' of denial of care and treatment.
- 10.) Dr. Masewic told me he cannot treat my Right knee by aspirating the excess synovial fluid unless the Hillsborough County commissioner board approves the \$50.⁰⁰ - 60.⁰⁰ expenditure for a sterile aspiration kit, taking the easier and less efficacious route of treatment, using an ace bandage to "treat by osmosis" and ice. It is a joint capsule swollen with synovial fluid, not a bruise.
- 11.) Dr. Matthew Masewic intentionally refuses to have me treated at a local hospital, ignoring specific risks or hazards for not aspirating my knee, Thus denying me access to medical personnel qualified to exercise judgement for care of my right knee.

12.) Denise Ryan in a perfunctory auxilliary role in denying / delaying care to me, answering my official grievance claiming I was not in compliance with Dr. Masewicz's original orders for "osmosis" treatment because the ace bandage was so tight it caused increased pain to my right knee.

Injunctive Relief sought:

- A.) Order immediately examination and aspiration of my right knee and any other treatment necessary. Since my knee has been swollen with synovial fluid starting October 19, 2013. Federal District Court Rule 35 gives the court authority to order physical exams. It would be appropriate to have this done after viewing of both my knees to visually confirm for the record the physical conditions of both knees. Also appropriate would be examination a Concord Orthopedics for said aspiration and report on assessments of my right knee by impartial 3rd party, for purposes of admissions and discovery.
- B.) Take whatever appropriate measures or orders to deem necessary to avoid any retaliatory actions, violence or other acts at HCDOC to protect me from harm or "unfortunate" accident. This should include statewide measures if necessary.

- c.) Order Hillsborough county jail to forthwith amend, change or alter medical department requirements and procedures demanding that detainees and inmates medical records for prior treatment instances of chronic health issues affecting them while incarcerated must be on file before treatment for pain and other symptoms apparent to any lay person that a physician's attention is needed at such time of suffering pain or plainly evident physical ailments exist.
- d.) Order the immediate change to "Carbon Copy" forms be used for all detainees and inmates medical requests forms and administrative request forms be henceforth required to give detainees and inmates proper legal copies for all such requests in writing.
- e.) Order HCDOC or Obtain from Tenney Mountain orthopedics and Alpine Clinic orthopedics my medical files from treatment and diagnosis from my right knee; Both of Plymouth, NH.

Monetary Relief:

- A.) \$630,000⁰⁰ For a three way split of individual liabilities of defendants Dionne, Masewic and Ryan for \$210,000⁰⁰ each, for thier indicated complicity to deny me my due process rights for Eighth Amendment protections under the Fourteenth Amendment of the US Constitution, causing me unnecessary and wanton pain and suffering.

- B.) Order that Defendants Dionne and Masewic be held each personally liable for \$10,000⁰⁰ - \$100,000⁰⁰ as part of the overall monetary relief figure in paragraph A. And, Denise Ryan, in her perfunctory auxilliary role involving answering my official grievance, be held personally liable for an amount between \$5,000⁰⁰ and \$50,000⁰⁰ of the overall reward. These amounts, as well the original figure of \$630,000⁰⁰ should be legally construed punitive as well compensatory for pain and suffering and violating my constitutional rights enumerated in this complaint.
- C.) Hillsborough county's insurance for such civil actions and / or general fund should cover any part of the award Not brought punitively against the three personal defendants, as well any insurance Omnihealth Care CO., or other contracted medical company HCDOC subcontracts to run and staff the jail Medical department.

Closing Paragraph:

Mr. David Dionne is the super intendant of HCDOC at 445 Willow St. Manchester, NH 03103. Dr. Matthew Masewic is otherwise employed full-time at the state hospital in Concord, NH. He works 2 hours minimally or more per week at the jail. He refuses to aspirate my knee even though it is a simple \$150⁰⁰, twenty minute procedure I've had performed in orthopedic offices in the past.

Dr. Masewic assured me he'd performed "hundreds" of such knee aspirations himself. Denise Ryan is the Health Services Administrator at the jail. These three principle players are responsible for denying care to me and other such incarcerated persons as a cost saving ploy for Hillsborough county. I believe this practice as outlined in my complaint is constitutionally non-compliant.

December 16, 2013

John R. Duff-RT(R)
plaintiff

I DECLARE UNDER PENALTY OF PERJURY
THAT THE FORGOING INFORMATION
IS TRUE AND CORRECT.

December 16, 2013

John R. Duff-RT(R)

I declare a copy of this complaint has been mailed to
the defendants at 445 Willow St. Manchester, NH 03103

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Brief description of cause

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE